

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION**

SUE F. BRADLEY,

Plaintiff,

vs.

GUIDANT CORPORATION, et al,

Defendants.

**CIVIL ACTION NO.
3:07 CV 661-MHT**

MOTION TO DISMISS AND JOINDER IN MOTION TO STAY

Without waiving any other defense he may have to this lawsuit, Defendant Tab Whisenhunt (“Whisenhunt”) moves to dismiss the Plaintiff’s Complaint and Amendments thereto, under Rule 12(b)(6) of the Federal Rules of Civil Procedure, for failure to state a claim upon which relief can be granted. In support of this motion, Whisenhunt states that he has been fraudulently joined to this action, and incorporates the legal arguments, citations, and exhibits in Defendant Guidant Corporation and Guidant Sales Corporation’s Notice of Removal.

Whisenhut further hereby joins in the Motion to Stay All Proceedings in this Court Pending Transfer to MDL 1708, previously filed by Defendants Guidant Corporation and Guidant Sales Corporation.

s/ Andrew B. Johnson

One of the Attorneys for
Tab Whisenhunt

OF COUNSEL:

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CERTIFICATE OF SERVICE

I hereby certify that on July 26, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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and I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants:

None.

Respectfully submitted,

s/ Andrew B. Johnson

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